

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

0.236 ACRES OF LAND, MORE OR LESS,
SITUATE IN HIDALGO COUNTY,
STATE OF TEXAS; AND CAROL FRANK
KLINE, TRUSTEE OF THE CAROL
FRANK KLINE TRUST U/W, ET. AL.

Defendants.

CASE NO. 7:20-CV-351

COMPLAINT IN CONDEMNATION

1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security, for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule “A.”

4. The public purpose for which said interest in property is taken is set forth in Schedule “B.”

5. The legal description and map or plat of land in which certain interests are being acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in Schedules “C” and “D.”

6. The interest being acquired in the property described in Schedules “C” and “D” is set forth in Schedule “E.”

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule “F.”

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule “G.”

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule “E” of the property described in Schedules “C” and “D” be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

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N. JOSEPH UNRUH
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SCHEDULE

A

SCHEDULE A

AUTHORITY FOR THE TAKING

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554-55, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Act of Congress approved March 23, 2018, as Public Law 115-141, div. F, tit. II, Section 230, which appropriated the funds that shall be used for the taking.

SCHEDULE B

SCHEDULE B

PUBLIC PURPOSE

The public purpose for which said property is taken is to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

SCHEDULE C

SCHEDULE C

LEGAL DESCRIPTION

Hidalgo County, Texas

Tract: RGV-WSL-2010

Owner: Carol Frank Kline, Trustee of the Carol Frank Kline Trust U/W, et al.

Acres: 0.236

Being a 0.236 of one acre (10,265 square feet) parcel of land, more or less, being out of the Narciso Cabazos Survey, Abstract No. 30, Porción 71, Hidalgo County, Texas, being out of Lot 32 of San Juan Plantation recorded in Volume 1, Page 36, Map Records of Hidalgo County, Texas, and being out of a tract of land conveyed to Simon M. Frank and Leonard A. Frank from the Estate of Celine M. Peck as described in the Certified Copy of Will recorded in Volume 760, Page 19, Deed Records of Hidalgo County, Texas, said parcel of land being more particularly described by metes and bounds as follows;

Commencing at a point for the southeast corner of Lot 32 and the northeast corner of a called 10 acre tract conveyed to Oralía Martínez, et al by Warranty Deed recorded in Volume 1639, Page 779, Deed Records of Hidalgo County, Texas, said point being in the north right-of-way line of Old Military Road and the west line of a called 246.14 acre tract conveyed to KVS Family Limited Partnership by Warranty Deed with Vendor's Lien recorded in Instrument No. 2002-1048589, Official Records of Hidalgo County, Texas (Tract III), said point having the coordinates of N=16556678.441, E=1088439.067, said point bears S 71°48'38" E, a distance of 1000.88' from United States Army Corps of Engineers Control Point No. 110;

Thence: N 08°25'39" E, departing the north right-of-way line of Old Military Road, with the east line of Lot 32 and the west line of the 246.14 acre tract, passing at 258.15' the southwest corner of the river levee right-of-way conveyed to the United States of America by Easement Deed recorded in Volume 435, Page 398, Deed Records of Hidalgo County, Texas (82-H), continuing for a total distance of 346.77' to a set 5/8" rebar with an MDS LAND SURVEYING aluminum disk capped survey marker stamped with the following description: "RGV-WSL-2010-1" for the **Point of Beginning** and southeast corner of Tract RGV-WSL-2010, said point being in the east line of Lot 32, the west line of the 246.14 acre tract and the west line of the "82-H" levee right-of-way, said point being at the southeast corner of the river levee right-of-way conveyed to the United States of America by Easement Deed recorded in Volume 442, Page 392, Deed Records of Hidalgo County, Texas (78-H, Tract 1), said point having the coordinates of N=16557021.467, E=1088489.889;

Thence: S 82°16'45" W, departing the west line of the 246.14 acre tract and the west line of the "82-H" levee right-of-way, with the south line of the "78-H, Tract 1" levee right-of-way, over and across Lot 32, for a distance of 188.28' to a set 5/8" rebar with an MDS LAND SURVEYING aluminum disk capped survey marker stamped with the following description: "RGV-WSL-2010-2" for the southwest corner

SCHEDULE C (Cont.)

the "78-H, Tract 1" levee right-of-way, said point being in the west line of Lot 32, the east line of the river levee right-of-way conveyed to the United States of America by Easement Deed recorded in Volume 435, Page 510, Deed Records of Hidalgo County, Texas (83-H), and the east line of Lot 9 of Closner Subdivision recorded in Volume 1, Page 56, Map Records of Hidalgo County, Texas, and being the same tract conveyed to John Mundt by Deed recorded in Volume 100, Page 86, Deed Records of Hidalgo County, Texas;

Thence: N 08°29'54" E, with the west line of Lot 32, the east line of the John Mundt tract, the east line of Lot 9 of Closner Subdivision, the west line of the "78-H, Tract 1" levee right-of-way, and the east line of the "83-H" levee right-of-way, for a distance of 55.57' to a point for the northwest corner of Tract RGV-WSL-2010, said point being at the northwest corner of the Frank tract and the northeast corner of the John Mundt tract, said point being in the west line of Lot 32, the east line of Lot 9 of Closner Subdivision, the west line of the "78-H, Tract 1" levee right-of-way, the east line of the "83-H" levee right-of-way, the approximate centerline of Doffin Canal Road, and the south line of a tract of land conveyed to Hidalgo County Water Improvement District No. Two by Warranty Deed recorded in Volume 120, Page 531, Deed Records of Hidalgo County, Texas (Lateral A);

Thence: N 81°34'05" E, departing the east line of Lot 9 of Closner Subdivision and the east line of the "83-H" levee right-of-way, with the north line of the Frank tract, the south line of the Hidalgo County Water Improvement District No. Two tract, and the approximate centerline of Doffin Canal Road, over and across Lot 32 and the "78-H, Tract 1" levee right-of-way, for a distance of 188.90' to a point for the northeast corner of Tract RGV-WSL-2010, said point being at the northeast corner of the Frank tract and the northwest corner of the 246.14 acre tract, said point being in the east line Lot 32, the east line of the "78-H, Tract 1" levee right-of-way, the west line of the "82- H" levee right-of-way, the south line of the Hidalgo County Water Improvement District No. Two tract, and the approximate centerline of Doffin Canal Road;

Thence: S 08°25'39" W, departing the approximate centerline of Doffin Canal Road and the south line of the Hidalgo County Water Improvement District No. Two tract, with the east line of the Frank tract, the east line of Lot 32, the east line of the "78-H, Tract 1" levee right-of-way, the west line of the "82-H" levee right-of-way, and the west line of the 246.14 acre tract, for a distance of 57.99' to the **Point of Beginning**.

SCHEDULE D

Acres: 0.236

SCHEDULE D (Cont.)

LEGEND		
●	5/8" REBAR W/ "MDS" CAP SET	ACQUISITION AREA BOUNDARY
○	CALCULATED POINT	ADJOINING ACQUISITION
△	CONTROL POINT	BARBED WIRE FENCE
⊙	POWER POLE	CHAIN LINK FENCE
DRHC	DEED RECORDS OF HIDALGO COUNTY	EASEMENT
INST.	INSTRUMENT	PROPERTY LINE
MB	MAILBOX	OVERHEAD ELECTRIC
MRHC	MAP RECORDS OF HIDALGO COUNTY	TOE OF LEVEE
No.	NUMBER	SEE SHEET 5
ORHC	OFFICIAL RECORDS OF HIDALGO COUNTY	
PG	PAGE	
POB	POINT OF BEGINNING	
POC	POINT OF COMMENCING	
VOL	VOLUME	
WB	WOOD BUILDING (ONE-STORY RESIDENCE)	

LINE	BEARING	DISTANCE	REC-BEARING	REC-DISTANCE
L1	S 82°16'45" W	188.28'	N/A	N/A
L2	N 08°29'54" E	55.57'	N/A	N/A
L3	N 81°34'05" E	188.90'	N/A	N/A
L4	S 08°25'39" W	57.99'	N/A	N/A
L5	N 08°25'39" E	346.77'	N/A	N/A
L6	S 71°48'38" E	1000.88'	N/A	N/A

COORDINATE TABLE

MONUMENT No.	NORTHING	EASTING	MONUMENT NAME
1	16557021.467	1088489.889	RGV-WSL-2010-1
2	16556996.172	1088303.316	RGV-WSL-2010-2
3	16557051.132	1088311.528	RGV-WSL-2003-3=2010-3
4	16557078.831	1088498.388	RGV-WSL-2010-4=2011-3
5	16556678.441	1088439.067	POC RGV-WSL-2010

NOTES:

- THE BEARINGS, DISTANCES, AND COORDINATE VALUES SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, REFERENCED TO NAD83(2011), TX SOUTH ZONE (4205), US SURVEY FEET, USING THE CORS(2011) ADJUSTMENT. THE DISTANCES AND COORDINATES SHOWN HEREON ARE GRID VALUES AND MAY BE CONVERTED TO GROUND (SURFACE) USING THE TxDOT COUNTY PUBLISHED COMBINED SCALE FACTOR OF 1.000040000 (E.G. GRID X 1.000040000 = SURFACE).
- A SEPARATE METES AND BOUNDS DESCRIPTION OF EQUAL DATE WAS WRITTEN IN CONJUNCTION WITH THIS SURVEY PLAT.
- THE SQUARE FOOTAGE TOTAL RECITED HEREIN IS BASED ON MATHEMATICAL CALCULATIONS AND SUBJECT TO THE RULES OF ROUNDING AND SIGNIFICANT NUMBERS.
- THE REMAINING ACREAGE OF THE PARENT TRACT WAS CALCULATED FROM THE RECORDED INSTRUMENTS AND IS NOT BASED ON FIELD DIMENSIONS.
- FIELD SURVEY COMPLETED 09/12/2018.
- THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
- MDS LAND SURVEYING COMPANY, INC. HAS PROVIDED THESE SURVEY SERVICES TO THE CORPS OF ENGINEERS AS A SUBCONSULTANT TO B&F ENGINEERING, INC., THE PRIME CONSULTANT. THE CORPS' CONTRACTING OFFICER'S REPRESENTATIVE IS STEPHEN CORLEY, RPLS (817) 886-1143.
- LONE STAR 811 UTILITY LOCATE REQUEST WAS SUBMITTED FOR THIS SURVEY ON OCTOBER 5, 2018 (TICKET NO. 582715436).

MDS LAND SURVEYING COMPANY, INC.

ALTA | BOUNDARY | CONSTRUCTION | OIL & GAS | TOPOGRAPHIC
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING FIRM REGISTRATION No. 10079600
7298 SIDNEY BAKER • KERRVILLE, TX 78028 • 830-816-1818

Drawing Ref. No.
SHEET 4 OF 6

METES & BOUNDS SURVEY
SIMON M. FRANK & LEONARD A. FRANK
TRACT No. RGV-WSL-2010
HIDALGO COUNTY TEXAS

Mark	Description	Date	Appr.
1	Surveyor	10/18	
	Checker	10/18	
	Surveyor	10/18	
	Field Bk. #	XXX	

CONTRACT NO.: W6127S-14-D-0013
T.O.: W45XMAS15779570001

BY	DATE
Drawn	LMK 10/18
Checked	LMK 10/18
Surveyor	JOE 10/18
Field Bk. #	XXX

TEXAS LICENSED SURVEYING FIRM
B&F ENGINEERING, INC.
NO. 10133942

B&F ENGINEERING, INC.
528 AIRPORT ROAD
HOT SPRINGS, AR 71913
PH: 501-767-2366
(FAX) 501-767-6869
(EMAIL) info@benteng.com

US Army Corps
of Engineers

MDS PROJ. NO. 18-200-00

FILE NAME: RGV-WSL-2010

DATE: 4/7/2020



SCHEDULE D (Cont.)

<p>1</p> <p>LOT 32 SAN JUAN PLANTATION VOL. 1, PG. 36 MRHC</p> <p>SIMON M. FRANK & LEONARD A. FRANK CERTIFIED COPY OF WILL VOL. 760, PG. 19 DRHC</p> <p>REMAINING AREA: 1.227 ACRES</p>	<p>2</p> <p>KVS FAMILY LIMITED PARTNERSHIP CALLED 246.14 ACRES INST. No. 2002-1048589 ORHC (TRACT III)</p>	<p>3</p> <p>GUSTAVO BAZALDUA & HORTENCIA BAZALDUA DEED OF PARTITION CALLED 1.00 ACRE VOL. 2688, PG. 457 DRHC</p>
<p>4</p> <p>JOHN MUNDT VOL. 100, PG. 86 DRHC</p> <p>PORTION OF LOT 9 CLOISNER SUBDIVISION VOL. 1, PG. 56 MRHC</p>	<p>5</p> <p>HIDALGO COUNTY WATER IMPROVEMENT DISTRICT No. TWO WARRANTY DEED VOL. 120, PG. 531 DRHC (LATERAL A)</p>	<p>6</p> <p>JAVIER VALDEZ CALLED 1.00 ACRE INST. No. 2017-2841429 ORHC</p>
<p>7</p> <p>ORALIA MARTINEZ, ET AL CALLED 10 ACRES WARRANTY DEED VOL. 1639, PG. 779 DRHC</p>	<p>8</p> <p>FILECONA SITE CONTRACTORS, LLC GENERAL WARRANTY DEED INST. No. 2015-2605188 ORHC (LOT 10 CLOISNER)</p>	<p>9</p> <p>JAVIER VALDEZ CALLED 1.00 ACRE DEED OF PARTITION VOL. 2686, PG. 36 DRHC</p>

MDS | LAND SURVEYING
COMPANY, INC.

ALTA | BOUNDARY | CONSTRUCTION | OIL & GAS | TOPOGRAPHIC

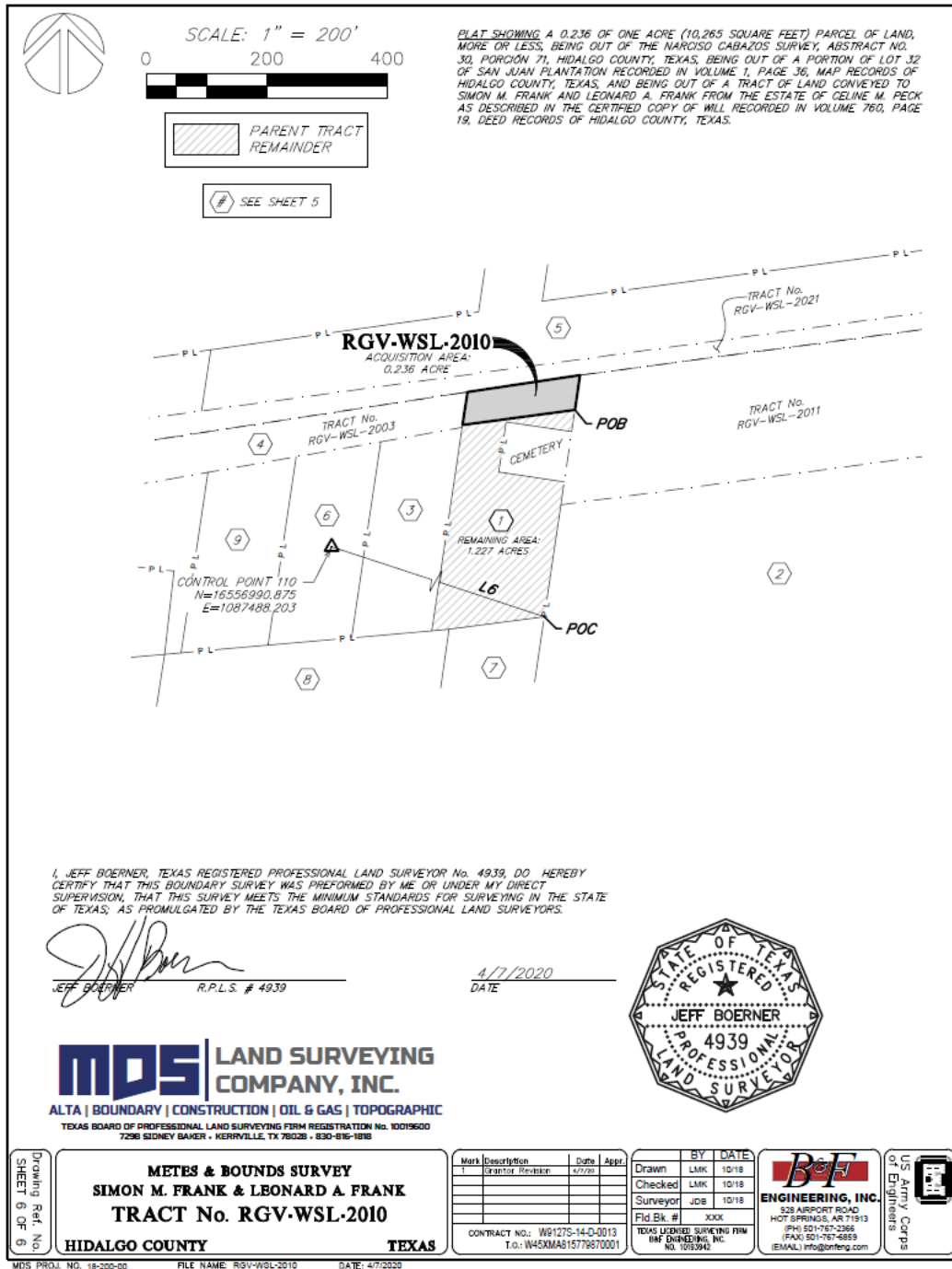
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING FIRM REGISTRATION No. 10019600
7298 SIDNEY BAKER • KERRVILLE, TX 78028 • 830-816-1818

Drawing Ref. No. SHEET 5 OF 6	METES & BOUNDS SURVEY				BY DATE		 B&F ENGINEERING, INC. 328 AIRPORT ROAD HOT SPRINGS, AR 71913 (PH) 501-767-3366 (FAX) 501-767-4889 (EMAIL) info@bmfeng.com	 US Army Corps of Engineers
	SIMON M. FRANK & LEONARD A. FRANK				Drawn	LMK 10/18		
	TRACT No. RGV-WSL-2010				Checked	LMK 10/18		
	HIDALGO COUNTY TEXAS				Surveyor	JDB 10/18		
					Flt Bk. #	XXX		
CONTRACT NO.: W91275-14-D-0013 T.O.: W45XMA615779870001				TEXAS LICENSED SURVEYING FIRM B&F ENGINEERING, INC. NO. 10019600				

MDS PROJ. NO. 18-200-00

FILE NAME: RGV-WSL-2010

DATE: 4/7/2020

SCHEDULE D (Cont.)

SCHEDULE E

SCHEDULE E

ESTATE TAKEN

Hidalgo County, Texas

Tract: RGV-WSL-2010

Owner: Carol Frank Kline, Trustee of the
Carol Frank Kline Trust U/W, et al.

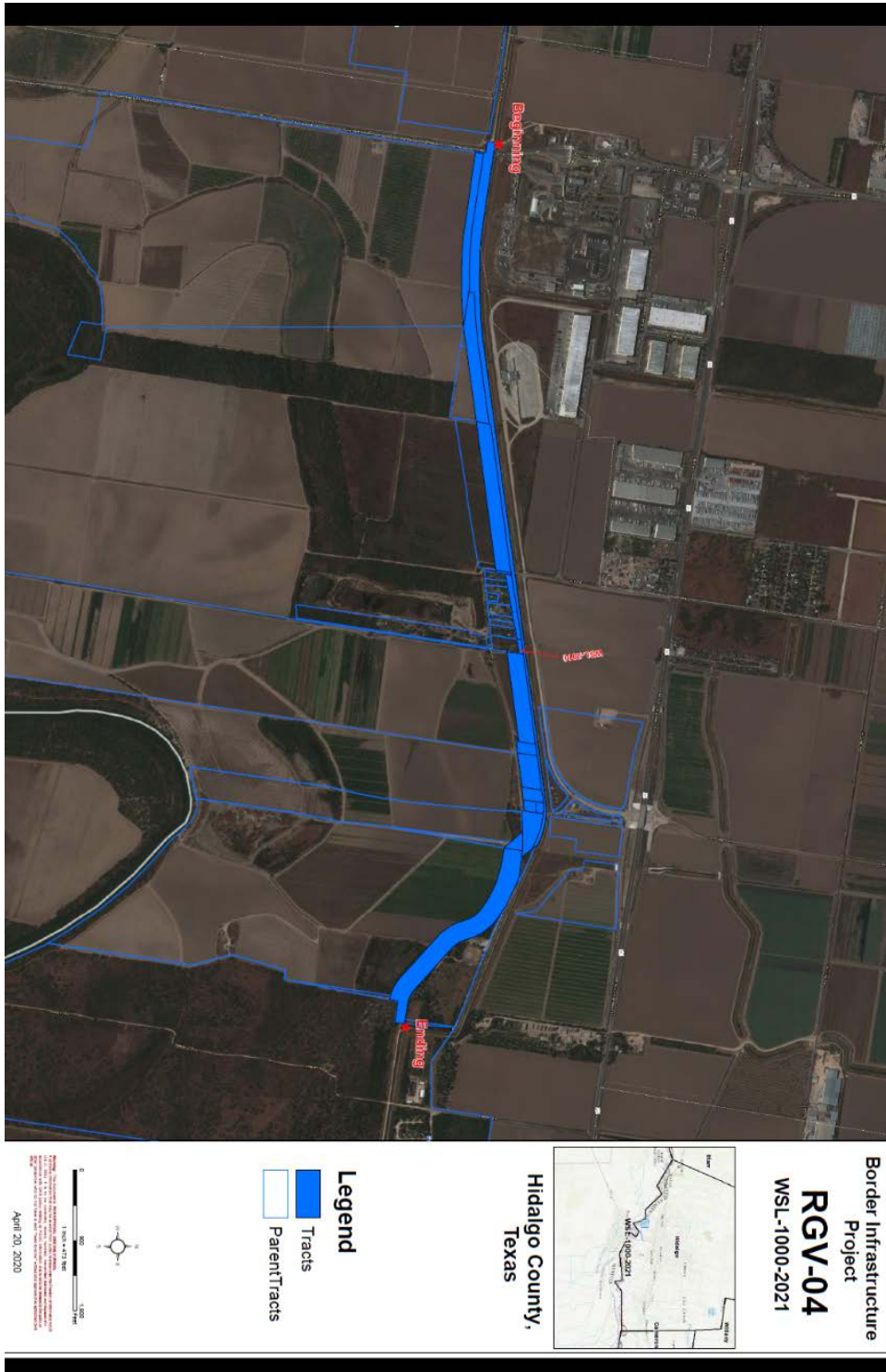
Acres: 0.236

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to all interests in minerals and appurtenant rights for exploration, development, production and removal of said minerals;

Reserving to the owners of the lands identified as Narciso Cabazos Survey, Abstract No. 30, Porción 71, Hidalgo County, Texas, and identified as Lot 32 of San Juan Plantation recorded in Volume 1, Page 36, Map Records of Hidalgo County, Texas, reasonable access to and from the owners' lands lying between the Rio Grande River and the border barrier through opening(s) or gate(s) in the border barrier between the westernmost mark labeled "Beginning" and easternmost mark labeled "Ending" depicted on the map below;

Excepting and excluding all interests in water rights and water distribution and drainage systems, if any, provided that any surface rights arising from such water rights or systems are subordinated to the United States' construction, operation, and maintenance of the border barrier.

SCHEDULE E (Cont.)



SCHEDULE

F

SCHEDULE F

ESTIMATE OF JUST COMPENSATION

The sum estimated as just compensation for the land being taken is TEN THOUSAND DOLLARS AND NO/100 (\$10,000.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto.

SCHEDULE G

SCHEDULE G**INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. See Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
Carol Frank Kline, Trustee of the Carol Frank Kline Trust U/W Fort Worth, Texas	RGV-WSL-2010 Probate Records of Leonard A. Frank, Cause No. 2003-0003195-1, in the Probate Court of Hidalgo County, Texas Probate Records of Celine M. Peck; Document # 49322; Recorded April 2, 1952, Real Property Records of Hidalgo County, Texas Warranty Deed; Document # 1932- 14808; Recorded February 25, 1932, Real Property Records of Hidalgo County, Texas General Warranty Deed; Document # 1927-2540399, Recorded July 20, 1927, Real Property Records of Hidalgo County, Texas
Robert L. Frank & Rosalind C. Frank, Co-Trustees of the Rosalind C. Frank Trust U/W Hurst, Texas & Robert L. Frank, Trustee of the Robert L. Frank Trust U/W Houston, Texas	Probate Records of Hannah Ruth Frank, Document #403169; Recorded July 6, 2011, Probate Court Harris County, Texas Probate Records of Simon M. Frank, Document #999050; Recorded October 19, 1977, Probate Court Harris County, Texas Probate Records of Celine M. Peck, Document # 49322; Recorded April 2, 1952, Real Property Records of Hidalgo County, Texas

	<p>Warranty Deed; Document # 1932-14808; Recorded February 25, 1932, Real Property Records of Hidalgo County, Texas</p> <p>General Warranty Deed; Document # 1927-2540399, Recorded July 20, 1927, Real Property Records of Hidalgo County, Texas</p>
<p>Diana Cardenas</p> <p>Pharr, TX</p>	<p>Deed 2001-965713; Recorded May 1, 2001, Real Property Records of Hidalgo County, Texas</p>
<p>Pablo ‘Paul’ Villarreal, Jr. Hidalgo County Tax Assessor 2804 S. Business Hwy 281 Edinburg, TX 78539</p>	<p>Property Taxes</p>